



General Assembly

February Session, 2022

***Raised Bill No. 456***

LCO No. 3390



Referred to Committee on PUBLIC HEALTH

Introduced by:  
(PH)

***AN ACT CONCERNING CLEAN AND SAFE WELL WATER.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-471 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2022*):

3 (a) (1) If the Commissioner of Energy and Environmental Protection  
4 determines that pollution of the groundwaters has occurred or can  
5 reasonably be expected to occur and the Commissioner of Public Health  
6 determines that the extent of pollution creates or can reasonably be  
7 expected to create an unacceptable risk of injury to the health or safety  
8 of persons using such groundwaters as a public or private source of  
9 water for drinking or other personal or domestic uses, the  
10 Commissioner of Energy and Environmental Protection may issue an  
11 order to the person or municipality responsible for such pollution  
12 requiring that (A) potable drinking water be provided to all persons  
13 affected by such pollution, or (B) the person or municipality repair or  
14 replace, as necessary, any private well, as defined in section 19a-37, that  
15 requires repair or replacement as a result of contamination of the private  
16 well by such pollution. In determining if pollution creates an

17 unacceptable risk of injury, the Commissioner of Public Health shall  
 18 balance all relevant and substantive facts and inferences and shall not  
 19 be limited to a consideration of available statistical analysis but shall  
 20 consider all of the evidence presented and any factor related to human  
 21 health risks. If the Commissioner of Energy and Environmental  
 22 Protection finds that more than one person or municipality is  
 23 responsible for such pollution, the commissioner shall attempt to  
 24 apportion responsibility if the commissioner determines that  
 25 apportionment is appropriate. If the commissioner does not apportion  
 26 responsibility, all persons and municipalities responsible for the  
 27 pollution of the groundwaters shall be jointly and severally responsible  
 28 for the (i) providing of potable drinking water to persons affected by  
 29 such pollution, or (ii) repair or replacement, as necessary, any private  
 30 well, as defined in section 19a-37, that requires repair or replacement as  
 31 a result of contamination of the private well by such pollution. If the  
 32 commissioner determines that the state or an agency or department of  
 33 the state is responsible in whole or in part for the pollution of the  
 34 groundwaters, such agency or department shall prepare or arrange for  
 35 the preparation of an engineering report, [and shall] provide or arrange  
 36 for the provision of a long-term potable drinking water supply and  
 37 repair or replace, as necessary, any private well, as defined in section  
 38 19a-37, that requires repair or replacement as a result of contamination  
 39 of the private well by such pollution. If the commissioner is unable to  
 40 determine the person or municipality responsible or if the commissioner  
 41 determines that the responsible persons have no assets other than land,  
 42 buildings, business machinery or livestock and are unable to secure a  
 43 loan at a reasonable rate of interest to provide potable drinking water or  
 44 to repair or replace any private well contaminated by such pollution, the  
 45 commissioner may prepare or arrange for the preparation of an  
 46 engineering report and provide or arrange for the provision of a long-  
 47 term potable drinking water supply and, where necessary, the repair or  
 48 replacement of a private well contaminated by such pollution or the  
 49 commissioner may issue an order to the municipality wherein  
 50 groundwaters unusable for potable drinking water are located requiring  
 51 that short-term provision of potable drinking water be made to those

52 existing residential buildings and elementary and secondary schools  
53 affected by such pollution and that long-term provision of potable  
54 drinking water be made to all persons affected by such pollution and,  
55 where necessary, repair or replacement of a private well contaminated  
56 by such pollution be conducted. For purposes of this section, "residential  
57 building" means any house, apartment, trailer, mobile manufactured  
58 home or other structure occupied by individuals as a dwelling, except a  
59 non-owner-occupied hotel or motel or a correctional institution.

60 (2) Any order issued pursuant to this section may require the  
61 provision of potable drinking water in such quantities as the  
62 commissioner determines are necessary for drinking and other personal  
63 and domestic uses and may require the maintenance and monitoring of  
64 potable water supply facilities for any period which the commissioner  
65 determines is necessary. In making such determinations, the  
66 commissioner shall consider the short-term and long-term needs for  
67 potable drinking water and the health and safety of those persons whose  
68 water supply is unusable. Any order may require the submission of an  
69 engineering report which shall be subject to the approval of the  
70 commissioner and the Commissioner of Public Health and include, but  
71 not be limited to, a description in detail of the problem, area and  
72 population affected by pollution of the groundwaters; the expected  
73 duration of and extent of the pollution; alternate solutions including  
74 relative cost of construction or installation, operation and maintenance;  
75 design criteria on all alternate solutions; and any other information  
76 which the commissioner deems necessary. Upon review of such report,  
77 the commissioner and the Commissioner of Public Health shall consider  
78 the nature of the pollution, the expected duration and extent of the  
79 pollution, the health and safety of the persons affected, the initial and  
80 ongoing cost-effectiveness and reliability of each alternative and any  
81 other factors which they deem relevant, and shall approve a system or  
82 method to provide potable drinking water pursuant to the order. Each  
83 order shall include a time schedule for the accomplishment of the steps  
84 leading to the provision of potable drinking water. Notwithstanding the  
85 fact that a responsible party has been or may be identified or a request

86 for a hearing on or a pending appeal from an order issued pursuant to  
87 this section, when pollution of the groundwaters has occurred or may  
88 reasonably be expected to occur, the commissioner may prepare or  
89 arrange for the preparation of an engineering report as described in this  
90 subdivision and may provide or arrange for the provision of a long-term  
91 potable drinking water supply. In any case where the state or an agency  
92 or department of the state is responsible in whole or in part for the  
93 pollution of the groundwaters, such agency or department shall prepare  
94 or arrange for the preparation of an engineering report and shall  
95 provide or arrange for the provision of a long-term potable drinking  
96 water supply, and if the state is not the sole responsible party, the  
97 commissioner shall seek reimbursement under subdivision (4) of  
98 subsection (b) of this section for the costs of such report and for the  
99 provision of potable water. The cost of the report and of the provision  
100 of a long-term potable drinking water supply, as funds allow, shall be  
101 paid from the proceeds of any bonds authorized for the provision of  
102 potable drinking water.

103 (3) The provisions of this section shall not affect the rights of any  
104 municipality to institute suit to recover all damages, expenses and costs  
105 incurred by the municipality from any responsible party, including, but  
106 not limited to, the costs specified in subparagraph (B)(i) and (ii) of  
107 subdivision (4) of subsection (b) of this section and, in the case of any  
108 municipality which is not responsible for the pollution of the  
109 groundwaters, the additional amounts specified in subparagraph (B)(iii)  
110 and (iv) of subdivision (4) of subsection (b) of this section.

111 (4) No provision of this section shall limit the liability of any person  
112 who or municipality which renders the groundwaters unusable for  
113 potable drinking water from a suit for damages by a person who or  
114 municipality which relied on said groundwaters for potable drinking  
115 water prior to the determination by the commissioner that the  
116 groundwaters are polluted.

117 (5) The commissioner may issue any order pursuant to this section if  
118 the pollution of the groundwaters occurred before or after July 1, 1982.

119 (6) The commissioner may at any time require further action by any  
 120 person to whom or municipality to which an order is issued pursuant  
 121 to this section, including, but not limited to, the repair or replacement of  
 122 a private well, if the commissioner determines that such action is  
 123 necessary to protect the health and safety of those persons whose water  
 124 supply was rendered unusable.

125 (b) (1) (A) Any municipality not responsible for the pollution of the  
 126 groundwaters that is ordered to provide potable drinking water or to  
 127 repair or replace a private well in accordance with subsection (a) of this  
 128 section may apply to the commissioner for a grant as provided by this  
 129 subsection. Except as provided in subparagraph (C) of subdivision (1)  
 130 of this subsection and in subdivision (2) of this subsection, the  
 131 commissioner shall make grants for the short-term provision of potable  
 132 drinking water, the repair or replacement of a private well and the  
 133 construction or installation of individual wells or individual water  
 134 treatment systems, including, but not limited to, carbon absorption  
 135 filters and shall make grants for other capital improvements for the  
 136 long-term provision of potable drinking water from any bond  
 137 authorization established for that purpose.

138 (B) The amount distributed to a municipality shall, as funds allow,  
 139 equal one hundred per cent of the cost of short-term provision of potable  
 140 drinking water and the repair or replacement of a private well, one  
 141 hundred per cent of the cost of the engineering report required by this  
 142 section, one hundred per cent of the cost of capital improvements for the  
 143 most cost-effective long-term method of providing potable drinking  
 144 water as determined by the commissioner and the Commissioner of  
 145 Public Health upon consideration of such engineering report, and one  
 146 hundred per cent of the cost during the first five years of installation of  
 147 monitoring and maintaining individual water treatment systems and  
 148 monitoring drinking water wells located in an area where the  
 149 commissioner determines that pollution of the groundwater is  
 150 reasonably likely to occur. No state funds shall be distributed to a  
 151 municipality for the cost of operating or maintaining any potable water  
 152 supply facilities other than as specified in this subsection.

153 (C) Notwithstanding any provision of this subsection to the contrary,  
 154 the commissioner may advance to a municipality, from the proceeds of  
 155 any bonds authorized for the provision of potable drinking water, any  
 156 percentage of the cost of short-term and long-term provision of potable  
 157 drinking water and repair or replacement of private well that the  
 158 commissioner deems necessary.

159 (2) (A) If the commissioner is unable to determine the person or  
 160 municipality responsible for rendering the groundwaters unusable for  
 161 potable drinking water or if the commissioner determines that the  
 162 responsible persons have no assets other than land, buildings, business  
 163 machinery or livestock and are unable to secure a loan at a reasonable  
 164 rate of interest to provide potable drinking water, a water company that  
 165 has less than ten thousand customers and that owns, maintains,  
 166 operates, manages, controls or employs a water supply well that is  
 167 rendered unusable for potable drinking water, may apply to the  
 168 commissioner for a grant from funds established pursuant to section  
 169 22a-451 or from the proceeds of any bonds authorized for the provision  
 170 of potable drinking water. If, upon review of the engineering report  
 171 required by this subsection to be submitted with an application for such  
 172 a grant, the commissioner determines that a grant to a water company  
 173 from available appropriations or from the proceeds of any bonds  
 174 authorized for the provision of potable drinking water is appropriate,  
 175 the commissioner may make such a grant in accordance with  
 176 regulations adopted by the commissioner pursuant to subsection (e) of  
 177 this section.

178 (B) The total amount distributed to a water company pursuant to this  
 179 subsection shall, as funds allow, equal fifty per cent of the cost of the  
 180 engineering report required by this subsection and fifty per cent of the  
 181 cost of the most cost-effective long-term method of rendering the water  
 182 supply in question usable for potable drinking water, as determined by  
 183 the commissioner and the Commissioner of Public Health upon  
 184 consideration of the required engineering report.

185 (C) For purposes of this section, "water company" and "customer"

186 have the same meanings as provided in section 25-32a.

187 (D) Any water company applying for a grant pursuant to this section  
188 shall prepare or have prepared an engineering report that shall be  
189 subject to the approval of the commissioner and the Commissioner of  
190 Public Health and include, but not be limited to, a description in detail  
191 of the problem, area and population affected by pollution of the  
192 groundwaters; alternate solutions including relative cost of construction  
193 or installation, operation and maintenance; design criteria on all  
194 alternate solutions and any other information the commissioner deems  
195 necessary.

196 (3) (A) If a municipality or water company receives funding from a  
197 private source, a federal grant or another state grant for any cost for  
198 which a grant may be awarded pursuant to this section, the grant under  
199 this section shall equal the specified percentage of the costs specified in  
200 this subsection minus the amount of the other funding.

201 (B) If a municipality or water company receives a grant under this  
202 section and is compensated by a person who or municipality that is  
203 responsible for rendering the groundwaters unusable for potable  
204 drinking water, the municipality or water company shall reimburse the  
205 account from which the funds were made available for the grant as  
206 follows: If the compensation from the responsible party equals or  
207 exceeds the costs toward which the grant was to be applied, the  
208 municipality or water company shall reimburse the total amount of the  
209 grant; if the compensation is less than the cost toward which the grant  
210 was to be applied, the municipality or water company shall reimburse a  
211 percentage of the compensation equal to the percentage of such costs  
212 paid by the grant.

213 (4) (A) Notwithstanding any request for a hearing or a pending  
214 appeal therefrom, if a person or municipality responsible for pollution  
215 of the groundwaters fails to comply with an order of the commissioner  
216 issued pursuant to this section, the municipality wherein such pollution  
217 is located may, after giving written notice of its intent to the

218 commissioner and the responsible person or municipality, undertake  
 219 the actions required by the order and seek reimbursement for the cost  
 220 of such actions from the responsible person or municipality. If at any  
 221 time after receipt of such a notice, the responsible party intends to  
 222 comply with a step of the order that the municipality has not yet  
 223 completed, the responsible party may do so with the written approval  
 224 of the commissioner and municipality, provided the actions that the  
 225 responsible party takes are consistent with those taken by the  
 226 municipality.

227 (B) The commissioner may order any person or municipality  
 228 responsible for pollution of the groundwaters to reimburse the state, a  
 229 water company, and any municipality that is not responsible for  
 230 pollution but received an order pursuant to this section or that did not  
 231 receive such an order but voluntarily provided potable drinking water  
 232 or repaired or replaced a private well, for (i) the expenses each incurred  
 233 in providing potable drinking water to or repairing or replacing a  
 234 private well of any person affected by such pollution, provided the  
 235 required reimbursement for such expenses shall not exceed the actual  
 236 cost of short-term provision of potable drinking water or of the repair  
 237 or replacement of the private well and an amount equal to the  
 238 reasonable cost of planning and implementing the most cost-effective  
 239 long-term method of providing potable drinking water as determined  
 240 by the commissioner and the Commissioner of Public Health; (ii) costs  
 241 for recovering such reimbursement; (iii) interest on the expenses  
 242 specified in (i) at a rate of ten per cent a year from the date such expenses  
 243 were paid; and (iv) reasonable attorney's fees. The commissioner may  
 244 request the Attorney General to bring a civil action to recover any costs  
 245 or expenses incurred by the commissioner pursuant to this subsection  
 246 provided no such action may be brought later than ten years after the  
 247 date of discovery of the pollution of public or private sources of water  
 248 for drinking or other personal or domestic use.

249 (C) If a municipality fails to recover all expenses specified in  
 250 subparagraph (B)(i) of subdivision (4) of this subsection from the  
 251 responsible party, the municipality may apply to the commissioner for



252 a grant in accordance with this subsection, provided the total amount of  
253 funds received from the commissioner and the responsible party shall  
254 not exceed the amounts specified in subparagraph (B) of subdivision (1)  
255 of subsection (b) of this section.

256 (5) For purposes of this section except subdivision (3) of subsection  
257 (a) and subparagraph (B)(ii) of subdivision (4) of this subsection, "cost"  
258 includes only those costs that the commissioner determines are  
259 necessary and reasonable, including, but not limited to, the cost of plans  
260 and specifications, construction or installation and supervision thereof.

261 (6) If any grant application is pending on June 7, 1994, and is  
262 approved by the commissioner, the percentage of costs to be paid by the  
263 grant shall be determined in accordance with this section. Any order  
264 pending on May 31, 1985, shall be construed in accordance with this  
265 section.

266 (7) Any person who or municipality that provides potable drinking  
267 water pursuant to this section may, with the approval of the  
268 commissioner, construct or install facilities beyond the areas included in  
269 the order or facilities that are more costly than those that are determined  
270 to be most cost-effective, provided any request for a grant or  
271 reimbursement shall be limited to the amounts specified in this section.

272 (8) Notwithstanding any provision of this section and the cost-  
273 sharing formula established in section 22a-471-1 of the Regulations of  
274 Connecticut State Agencies, for any area of a municipality that is  
275 adjacent to a federal Superfund site where there is a water line extension  
276 component to such project and the federal government is providing fire  
277 flow capacity while such water is groundwater supplied by a municipal  
278 water company, the minimum size water main required to address  
279 pollution may be upgraded in order to carry fire flow and the  
280 municipality shall only be responsible to pay the incremental project  
281 cost.

282 (9) Notwithstanding any provision of this section and the cost sharing  
283 formula established in section 22a-471-1 of the regulations of

284 Connecticut state agencies, for any area of a municipality that is adjacent  
285 to a site listed on the State of Connecticut Superfund Priority List where  
286 a water line extension component to such project has been installed by  
287 a municipal or private water company, the minimum size water main  
288 required to address pollution may be upgraded in order to carry fire  
289 flow or address public water supply needs that are consistent with an  
290 adopted plan of conservation and development and the municipality  
291 shall only be responsible to pay the incremental project cost, which may  
292 be funded by such water company, another person or available local,  
293 state or federal funds.

294 (c) Any order issued under the provisions of this section shall be  
295 subject to the rights of any aggrieved person or municipality to a hearing  
296 before the commissioner as provided in section 22a-436, and appeal  
297 from the final determination of the commissioner to the Superior Court  
298 as provided in section 22a-437. The request for a hearing or pending  
299 appeal therefrom shall not constitute a condition which shall stay the  
300 commissioner from requesting that an injunction under the provisions  
301 of section 22a-6 or 22a-435, or a civil action to recover a forfeiture under  
302 the provisions of section 22a-438, be initiated by the Attorney General.  
303 The court shall issue an injunction requiring the recipient of the order to  
304 take the steps required by the order for short-term and long-term  
305 provision of potable drinking water unless such court determines that  
306 the issuance of the order was arbitrary. Notwithstanding any provision  
307 of the general statutes, a court shall not grant a stay from any order  
308 issued pursuant to this section on the grounds that an administrative  
309 appeal is pending. If it is thereafter determined by the Superior Court as  
310 the result of an appeal under the provisions of section 22a-437 that the  
311 commissioner acted arbitrarily, unreasonably or contrary to law in  
312 requiring a person or municipality to comply with an order the  
313 commissioner shall reimburse the person or municipality for the total  
314 costs which have been incurred from the funds established under  
315 section 22a-446.

316 (d) The commissioner shall not issue an order to any person pursuant  
317 to this section if the sole basis for the order is that such person is the

318 owner of the land from which the source of pollution or potential source  
319 of pollution emanates.

320 (e) The commissioner may, in accordance with chapter 54, adopt such  
321 regulations as the commissioner deems necessary to carry out the  
322 provisions of this section, and shall adopt regulations for the provision  
323 of grants pursuant to this section which shall include criteria for  
324 eligibility for funds.

325 (f) (1) Notwithstanding the provisions of subsection (a) of this section,  
326 if the commissioner determines that a person whose actions have caused  
327 or can reasonably be expected to cause pollution of the groundwaters  
328 by the application of a pesticide (A) has properly applied the pesticide  
329 or arranged for a pesticide application which was properly performed,  
330 (B) was engaged in agriculture at the time the pesticide was applied and  
331 used the pesticide solely in the production of agricultural commodities,  
332 (C) has agreed to implement the plans specified in subdivision (2) of this  
333 subsection, and (D) maintained the records of the application of the  
334 pesticide as required by section 22a-58 and the records and plan  
335 identified in section 22a-471a, the commissioner shall not issue an order  
336 under subsection (a) of this section to the person engaged in agriculture,  
337 but may issue an order under said subsection (a) to another responsible  
338 person, including, but not limited to, the producer of the pesticide,  
339 requiring the short-term and long-term provision of potable drinking  
340 water in accordance with said subsection (a). The commissioner shall  
341 not issue an order under said subsection (a) to a person engaged in  
342 agriculture who did not maintain the records identified under section  
343 22a-471a if said commissioner finds such records are not relevant to a  
344 determination of the party responsible for pollution of the  
345 groundwaters. If the commissioner is unable to determine the  
346 responsible person, the commissioner may issue such order to the  
347 municipality wherein groundwaters unusable for potable drinking  
348 water are located.

349 (2) If the commissioner determines that a person engaged in  
350 agriculture has caused or can reasonably be expected to cause pollution

351 of the groundwaters by pesticides, the commissioner may cause such  
352 person to submit to the commissioner and, upon approval by the  
353 commissioner, implement a plan to minimize the potential for  
354 groundwater contamination from the storage, handling and disposal of  
355 pesticides at the locations where such person engaged in agriculture.

356 (3) For the purposes of this subsection, a pesticide is properly applied  
357 if at the time of the application the pesticide was licensed by or  
358 registered with the state and federal government and was applied in a  
359 manner consistent with (A) the labeling of the pesticide, as defined in  
360 section 22a-47, (B) applicable state and federal statutes and regulations  
361 at the time of the application, (C) any approvals or recommendations of  
362 the federal, state or local government, including any limitations,  
363 warnings or conditions of such approvals or recommendations, and (D)  
364 generally accepted agricultural management practices at the time of  
365 application, considering any special geological, hydrological or soil  
366 conditions of which the farmer was aware or reasonably should have  
367 been aware.

368 (4) Any municipality which receives an order pursuant to  
369 subdivision (1) of this subsection shall be eligible for a grant from the  
370 state in accordance with subparagraph (1) of subsection (b) of this  
371 section.

372 (5) The provisions of this subsection shall apply to pollution of the  
373 groundwaters by pesticides discovered on or after May 26, 1988. All  
374 orders issued pursuant to this section by the commissioner prior to May  
375 26, 1988, shall remain in effect unless the orders are otherwise revoked,  
376 amended or modified by said commissioner.

377 (6) Nothing in this subsection, section 22a-471a or section 22a-471b  
378 shall affect or limit any right of action of an individual against any  
379 person engaged in agriculture for injury to person or property resulting  
380 from the use of a pesticide.

381 (7) For purposes of this subsection, "pesticide" has the same meaning  
382 as provided in section 22a-47.

This act shall take effect as follows and shall amend the following sections:
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Section 1	<i>October 1, 2022</i>	22a-471
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***Statement of Purpose:***

To ensure residents of the state have access to clean and safe well water.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*